



COUNTY OF SAN BERNARDINO
STANDARD PRACTICE

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DEPARTMENT

MENTAL HEALTH

SUBJECT

PATIENTS' RIGHTS

APPROVED

Jim McReynolds, Director

I PURPOSE

- A. To describe policies and procedures referring to patients' legal rights.
- B. To assist personnel who work with clients or patients to make judgements concerning situations in which a person's rights might be compromised.
- C. To assure that individuals are given every reasonable opportunity to exercise their rights.

II POLICY

- A. People shall not be denied any of their rights because of mental retardation or mental illness, except those rights denied by law. In order to prevent the violation of any rights, recent legislation has attempted to more clearly describe the rights of individuals who are involuntarily detained and treated.
- B. Each person in treatment should know and be able to avail himself of the same basic rights that are available to all.
- C. A parent, guardian or conservator may and should be encouraged to help assure an individual's rights when individuals are unable to do so themselves.
- D. Although rights may be denied for good cause, they shall not be denied on the basis of sex, religion, ethnic origin, social or financial status, or any other unreasonable classification.

III PERSONS ENTITLED TO PATIENTS' RIGHTS

- A. According to section 5235, welfare and Institutions code, the following rights shall be provided to :
 - 1. Each person involuntarily detained for evaluation or treatment under provisions of this part.

2. Each person admitted as a voluntary patient for psychiatric evaluation or treatment to any facility, as defined in Section 1250 of the Health and Safety in which psychiatric evaluation or treatment is offered.
 3. Each mentally retarded person committed to a state hospital pursuant to Article 5 (commencing with section 6500), Chapter 2 of Part 2 of Division 6.
- B. A list of these rights, prominently posted in the predominant languages of the community, shall be explained in a language or form accessible to the patient in all facilities providing such services.

IV PATIENTS' RIGHTS

- A. To wear their own clothes, keep and use their own personal possessions, including toilet articles, and to spend a reasonable sum of their own money for canteen expenses and small purchases.

Interpretation:

1. Individuals may wear their own clothes at all times.
2. They may possess personal items, including recreational, educational, grooming, decorative items and other possessions which may reasonably be stored in space provided.
3. They may personally retain a reasonable sum of their own money.

- B. To have access to individual storage space for their private use.

Interpretation:

1. Individuals shall have the right to storage space for their personal belongings that is readily accessible to them.
2. Individual clothing storage space is provided for patients on "B" West. Individuals housed on "B" North will have clothing stored in a shared property room which is accessible to them twenty-four hours a day.
3. Bedside storage area should be able to accommodate ready access for personal articles.

4. When patients' additional clothing or possessions are stored elsewhere than at bedside, they shall have access to those items at reasonable times. When the individual's possessions are not being used, they shall be protected from loss, theft or damage.

C. To see visitors each day.

Interpretation:

Family and friends should, when feasible, be allowed their privacy during visits. Patients also have the right to refuse to see visitors.

D. To have reasonable access to telephones, both to make and receive confidential calls.

Interpretation:

In each facility, a public and/or private telephone shall be available for making and receiving calls. Individuals without funds shall be provided the means for making local and collect calls. With the patient's permission, facility staff shall advise family or guardians on how to contact the resident by phone.

E. To have ready access to letter writing materials, including stamps, and to mail and receive unopened correspondence.

Interpretation:

Patients without funds shall be provided writing materials and stamps. Patients have a right to receive and mail unopened correspondence without direct surveillance.

Correspondence includes letters only, not packages.

F. To refuse electroconvulsive treatment.

Interpretation:

1. The right to refuse electroconvulsive treatment refers to the individual's absolute right to refuse to be treated by any of the convulsive therapies, such as electroconvulsive, chemically-induced convulsive or insulting coma. The person must be specifically informed by the

treatment physician about the right to refuse electroconvulsive therapy. If an individual agrees to electroconvulsive therapy:

- a. The attending or treatment physician documents in the patient's treatment record the reasons for the procedure, that all reasonable treatment modalities have been carefully considered, and that the treatment is definitely indicated and is the least drastic alternative available for the patient at this time. This statement in the treatment record shall be signed by the attending physician or physicians.
- b. Two physicians, at least one of whom shall have personally examined the patient, have conducted a review of the patient's treatment record.
- c. A responsible relative of the person's choosing and the person's guardian or conservator, if there is one, has heard the oral explanation by the attending physician. Should the person desire not to inform a relative, or should this chosen relative be unavailable, this requirement is dispensed with.
- d. The patient gives written informed consent to the convulsive treatment. Specified for a maximum number of treatments over a specified maximum period of time, this consent shall not exceed 30 days. Revocation of consent may be either oral or written and shall be effective immediately. Additional treatment requires renewed written informed consent.
- e. The patient's attorney, or if none, a public defender appointed by the court, agrees to the patient's capacity to give written informed consent.
- f. If either the attending physician or the attorney believes that the patient does not have the capacity to give a written informed consent, then a petition shall be filed in superior court to determine the patient's capacity to give written informed consent. The court shall hold an evidentiary hearing after giving appropriate notice to the patient, and within three judicial days after the petition is filed. At such hearing the

patient shall be present and represented by legal counsel. If the court deems the above-mentioned attorney to have a conflict of interest, such attorney shall not represent the patient in this proceeding. informed consent.

- g. If the court determines that the patient does not have the capacity to give written informed consent, the consent for treatment must be gained from a responsible relative, guardian or conservator of the patient.
- h. At any time during the treatment, a person deemed incompetent has the right to claim regained competency. If that person asserts this right, the person's competency must be re-evaluated according to subdivisions e,f,and g.

G. To refuse psychosurgery

Interpretation:

Psychosurgery is defined as lobotomy, psychiatric surgery and behavioral surgery. The individual's right to refuse psychosurgery is also an absolute right. The procedure is irreversible, therefore, it is the Department's position that psychosurgery not be practiced within this Department.

H. Roger S. Hearings.

This California Supreme Court decision gives minors 14 to 17 rights to a hearing. This only applies to voluntary minors whose admission is authorized by a parent or legal guardian and who are objecting to the admission. (See ROGER S. PROCEDURES for San Bernardino County Department of Mental Health).

I. RIESE Medication Competency Hearings

This California Supreme Court decision grants patients who are involuntarily committed on a 72-hour or 14-day hold, the right to refuse the administration of antipsychotic medication absent an emergency or a judicial determination of the patient's incompetence to make informed consent (See 24-Hour Care Program Inpatient Procedure Manual, "Riese Court Decision/Procedures or Medication Competency Hearings").

J. To see and receive the services of a patient advocate who has no direct or indirect clinical or

administrative responsibility for the person receiving mental health services.

I. Other rights as specified by regulation.

Each patient shall also be given notification in a language or modality accessible to the patient of other constitutional and statutory rights which are found by the Department of Mental Health to be frequently misunderstood, ignored, or denied.

Upon admission to a facility, each patient shall immediately be given a copy of a State Department of Mental Health prepared patients' rights handbook.

The rights specified in this section may not be waived by the parent, guardian or conservator.

V CONSTITUTIONAL PATIENTS' RIGHTS

A. Section 5325.1, Welfare and Institutions Code, provides that persons with mental illness have the same legal rights and responsibilities guaranteed all other persons by the Federal Constitution and laws and the Constitution and laws of the State of California, unless specifically limited by federal or state law or regulations.

B. It is the intent of the legislature that persons with mental illness shall have rights including, but not limited to, the following:

1. A right to treatment services which promote the potential of the person to function independently. Treatment should be provided in ways that are least restrictive of the personal liberty of the individual.
2. A right to dignity, privacy and humane care.
3. A right to be free from harm, including unnecessary or excessive physical restraint, isolation, medication, abuse or neglect. Medication shall not be used as punishment, for the convenience of staff, as a substitute for program, or in quantities that interfere with the treatment program.
4. A right to prompt medical care and treatment.
5. A right to religious freedom and practice.
6. A right to participate in appropriate

programs of publicly supported education.

7. A right to social interaction and participation in community activities.
8. A right to physical exercise and recreational opportunities.
9. A right to be free from hazardous procedures.

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CROSS REFERENCE LISTING
5150 Authorization

2-3.40

Inpatient Transportation Use for 5150s